

EXHIBIT M

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 19-11845-sh1

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5 In the Matter of:

6
7 BSG RESOURCES LIMITED (IN ADMINISTRATION) AND WALLACE
8 CALLEWAERT AND MALCOLM COHEN, AS JOINT ADMINISTRATORS,

9
10 Debtors.

11 - - - - - x

12
13 United States Bankruptcy Court

14 One Bowling Green

15 New York, NY 10004

16
17 November 12, 2020

18 2:03 PM

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21 B E F O R E :

22 HON SEAN H. LANE

23 U.S. BANKRUPTCY JUDGE

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25 ECRO: UNKNOWN

1 HEARING re Status Conference

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25 Transcribed by: Sonya Ledanski Hyde

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P R O C E E D I N G S

THE COURT: Good afternoon, this is Judge Sean Lane in the United States Bankruptcy Court for the Southern District of New York here for a 2:00 status conference in the Chapter 15 case of in re: BSG Resources Limited. And we're conducting this hearing using the Court Solutions service, which we've been using consistently as a Court since March. And so, let me start today's proceedings, as we usually do, which is to get appearances from counsel, so let me start with getting the appearances of the new joint administrators for BSG Resources in the (indiscernible) proceedings.

MR. ROCHESTER: Good afternoon, Your Honor, this is Shaya Rochester with Katten, Muchin, Rosenman LLP for the new joint administrators. Can you hear me okay?

THE COURT: I can hear you just fine, counsel, thank you.

MR. ROCHESTER: Great, thank you, Your Honor.

THE COURT: How do we find out --

MR. STAGMAN: Your Honor this is David -- oh, sorry.

THE COURT: Oh, go ahead.

MR. STAGMAN: This is David Stagman, from the Chicago Office of Katten, Muchin, Rosenman, also attending on behalf of the new joint administrators.

1 THE COURT: All right, great, good to have you.

2 And let me find out who is here on behalf of Vale SA?

3 MS. SCHWEITZER: Good afternoon, Your Honor, it's

4 Lisa Schweitzer from Cleary Gottlieb and I'm here with my

5 partner, Mr. Jeff Rosenthal.

6 MR. ROSENTHAL: Good afternoon, Your Honor.

7 THE COURT: Good afternoon. And then let me find

8 out who is here on behalf of the former joint

9 administrators.

10 MR. ADLER: Hello, Your Honor, it's Derek Adler

11 from Hughes Hubbard. Technically I guess I'm here on behalf

12 of BDO, I'm not sure it's right to call them the former

13 administrators anymore, them as individuals and on behalf of

14 BDO, their firm.

15 THE COURT: All right, thank you very much. All

16 right, it wouldn't be a proceeding in BSG Resources Limited

17 if we hadn't gotten a few letters, and I have taken a look

18 at the letters that have been submitted, including the ones

19 from the new administrators that was filed on November 9th,

20 docket number 126 as well as the letter filed on behalf of

21 BDO Limited and BDO LLP that was filed November 11th at

22 docket number 130. So, with that, what I thought I would do

23 is turn it over to the new joint administrator's counsel,

24 and you can sort of -- it's a status conference, so you can

25 give us some status and we'll see what we need to chat

1 about.

2 MR. ROCHESTER: Great, thank you, Your Honor. For
3 the record again, it's Shaya Rochester with Katten, Muchin,
4 Rosenman LLP on behalf of Richard Fleming, Mark Firmin, Carl
5 Bowles and their capacity as the new joint administrators
6 and foreign representative of the debtor, BSG Resources
7 Limited in this Chapter 15 case. That's kind of a mouthful,
8 so for brevity going forward I'm going to refer to those
9 gentlemen, those three gentlemen as -- simply as the new
10 joint administrators, and I'll refer to BSG Resources
11 Limited simply as BSG.

12 As Your Honor indicated we're here today for a
13 status conference in this Chapter 15 case. Unless Your
14 Honor had a sort of different -- wanted to proceed in a
15 different manner, there are two main topics that we would
16 like to discuss today. First is I'd like to provide the
17 Court with a brief update on what has happened since the
18 last hearing before this Court on September 3rd, 2020, and
19 then second, we'd like to discuss the letter that was filed
20 with the Court on behalf of the new administrators that you
21 referenced earlier, (indiscernible) number 126, as well as
22 the response from the former joint administrators, which was
23 filed last night at (indiscernible) number 130. Is it okay
24 if I proceed in that manner, Your Honor?

25 THE COURT: That sounds great, thank you very

1 much.

2 MR. ROCHESTER: Okay, thank you. Okay, so as Your
3 Honor is aware, in September 8th, 2020 after the last
4 hearing, the Guyanese Court presiding over the BSG's
5 (indiscernible) proceeding discharged William Callewaert and
6 Malcom Cohen in their capacity as the former joint
7 administrators for BSG. On that same date, the Guyanese
8 Court appointed the new joint administrators. Shortly
9 thereafter, the new joint administrators retained our firm,
10 Katten, Muchin, and Rosenman to advise them in multiple
11 legal proceedings in the US and across the globe, including
12 the Guyanese and (indiscernible) proceeding and this Chapter
13 15 case.

14 Your Honor, since that time, the new joint
15 administrators in Katten have been working extremely hard to
16 get up to speed on the many legal proceedings involving BSG
17 and the matters related thereto in order to determine next
18 steps -- the next steps that BSG should take. We take our
19 responsibilities very seriously and we are laser focused on
20 (indiscernible) BSG's assets, examining viable claims and
21 causes of action, and maximizing recoveries for all of BSG's
22 creditors.

23 But to perform those duties, we need information
24 and documentation. And in that regard, our ability to
25 perform our duties has been hampered significantly by the

1 fact that the new joint administrators have not yet received
2 the entirety of BSG's books and records from the former to
3 the administrators. We will turn to that in the second part
4 of the agenda, but I do make that point now. Turning to the
5 Chapter 15 case itself, since their appointment, the new
6 joint administrators have, among other things, considered
7 whether BSG should continue to seek recognition of the
8 currency and (indiscernible) proceeding in this Chapter 15
9 case, and we've had discussions with BSG's largest creditor,
10 Vale.

11 In that regard, I want to note for the record that
12 we've had very constructive discussions with Vale's counsel
13 at Cleary Gottlieb who are on the line regarding the Chapter
14 15 case and other matters related to the Chapter 15 case,
15 and we're working hard together to try to resolve disputes
16 in a consensual basis and without engaging in wasteful
17 litigation. As Your Honor's aware, one of the main reasons
18 why the Chapter 15 case was filed in the first place was to
19 preserve and protect BSG's litigation claims against George
20 (indiscernible) and certain affiliated entities in person in
21 litigation pending in the US District Court for the Southern
22 District of New York for Judge Keenan.

23 And we have some updates to report regarding the
24 source litigation. Last month on October 26th, BSG filed
25 its response to the source defendant's motion to dismiss.

1 On November 9th, or this past Monday, the source defendants
2 filed their reply in support of their motion to dismiss.
3 All argument in the motion to dismiss is scheduled for later
4 this month, on November 24th. We believe, and obviously,
5 this is not before Your Honor, but we believe that the
6 source defendant's motion to dismiss is without merit and
7 should be denied, and we're hopeful that Judge Keenan will
8 reach the same conclusion after oral argument is concluded
9 later this month.

10 Unless Your Honor has any questions about that
11 report, that status report, we would like then to turn to
12 the second part of the agenda, which is the letter that we
13 filed the Court and the former joint administrators'
14 response.

15 THE COURT: All right, please go ahead, counsel,
16 thank you.

17 MR. ROCHESTER: Okay. So, for the second part of
18 the agenda, I'm going to turn that over to my partner David
19 Stagman, who's on the line.

20 MR. STAGMAN: Good morning again, Your Honor. Or
21 this afternoon. So, we were very pleased to see that there
22 was a response from the former joint administrators, and of
23 course, we asked the Court for three topics of relief at
24 this hearing, one was affirmation of -- that we are, as the
25 new joint administrators, in control of the confidentiality

1 and privilege designations or withdrawals. I -- none of the
2 parties now, this last letter from BDO confirms it, have any
3 dispute as to that principle. We then asked for a
4 production of the documents that we had sought, that had
5 been sought in discovery. We've actually been asking BDO
6 for books and records since September, and so, while we
7 appreciate that BDO has now confirmed that it no longer has
8 confidentiality designations or concerns with respect to the
9 populations of documents that were in their records -- in
10 the letter, we don't actually have those records yet in
11 total.

12 We have, and we will need some clarification
13 hopefully on the record today from counsel for BDO, we have
14 received, as of yesterday, 20,890 documents and our belief,
15 although we would like confirmation from counsel, is that
16 those represent 20,890 of the 24,000 outstanding documents
17 to be reviewed that were referenced in the letter to Your
18 Honor from BDO. But, it was clear -- it would be otherwise
19 coincidental because on the same day that BDO sent a letter
20 to the Court discussing the confidentiality over the 73
21 documents, the 43 documents from Mr. (indiscernible)'s part
22 71 examination and their review of 24,000 documents, we at -
23 - our client received a letter also from BDO saying they
24 were in the process of reviewing these 24,000, 20,000 are
25 going to be the "released documents" as in a (indiscernible)

1 term and they would be getting us those 20,000 documents,
2 and then lo and behold, yesterday evening, just a few hours
3 after receiving that letter we got 20,000 documents.

4 So, if indeed those 20,890 documents are part of
5 the 24, we're really only talking about an additional three
6 or 4,000 documents that would remain to be reviewed. We
7 don't have any information yet on those documents, we
8 haven't had an opportunity to review them, and obviously, we
9 haven't seen the additional documents that are yet to be
10 produced. So, if counsel is able to confirm that on the
11 record, either at the conclusion of my remarks or if Your
12 Honor wants to hear an answer right now from BDO's counsel,
13 we can move on, but otherwise my remarks are just --

14 THE COURT: Well, it sounds like it probably makes
15 sense to do this as we go rather than have too many long
16 lists, so let's hear from BDO's counsel now, and I did read
17 the letter from BDO's counsel where they basically say that
18 they're not asserting any continuing interest as former
19 administrators, and I just wanted to make sure that's the
20 case because the -- shortly the quotation that's in the
21 letter from the counsel for the new joint administrators
22 doesn't appear to be consistent with that.

23 It talks about the former joint administrators are
24 currently in -- taking review of these documents to ensure
25 any documents in respect to which privilege belongs to the

1 former joint administrators themselves, and also as to
2 whether designated documents contain confidential
3 proprietary information from the joint administrators or BDO
4 rather than the company, so I'm assuming that I should take
5 the letter at docket number 130 to be a revision or update,
6 whatever you want to call it, to the position that was set
7 forth by counsel in the letter of September 23rd, sent by
8 Malcom Cohen, so let me hear from counsel from BDO Limited
9 and BDO LLC.

10 MR. ADLER: Sure, Your Honor, once again it's
11 Derek Adler from Hughes Hubbard for BDO and the former joint
12 administrators. So, the -- as I said in the letter, the
13 joint administrators, generally speaking agree that the new
14 joint administrators as successors to them inherit -- step
15 into their shoes under the confidentiality agreement and in
16 relation to all aspects of the present proceedings. But
17 with respect to the 24,000 documents that were produced to
18 Vale in this case, there's a very, very small population of
19 documents that contain information because the joint
20 administrators function in tandem with the BDO firm and
21 because Vale requested that documents that were in BDO's
22 custody, possession be turned over as part of the document
23 production, there's a very small population of documents
24 that contain BDO protected information, so internal
25 financial information, personnel information, work programs,

1 and things that are clearly protectable by BDO itself versus
2 by the BSG organization, which was the basis for the
3 original confidentiality --

4 THE COURT: So, am I -- I'll take your failure to
5 tackle the particular question I had about the September
6 23rd letter to be an agreement that you're not -- the former
7 administrators are no longer asserting that right, but as to
8 BDO, and I'll just use that term generally as to the two BDO
9 entities, I assume we're talking about documents that would
10 have -- that aren't historical documents, that they reflect
11 BDO's work or opinions or other things, so in other words,
12 that there would be no privilege that BDO is asserting that
13 would somehow shield a document that was created before
14 BDO's involvement that would essentially be what you'd call
15 sort of a historical document dealing with the business of
16 the debtors.

17 MR. ADLER: I -- absolutely none of them are BSG
18 documents, you know documents from the books or records of
19 BSG or prior to or indeed really during the administration.
20 They're internal documents so -- of BDO's. And it's a very
21 small population, but we do maintain that there is -- that
22 out of the 24,000 documents that were disclosed to Vale,
23 there is a small number of documents that contain that type
24 of information that have been produced and redacted form
25 designated as confidential, and as to that small population,

1 which I'm not in a position to list for you today, BDO will
2 assert that there is a continuing confidentiality
3 obligation, and that they shouldn't be produced in
4 unredacted form or be allowed to use -- be used for
5 anything, but I don't believe that any of these documents
6 are ones that Mr. Rosenthal and his team have been
7 particularly interested in, or would be particularly
8 interested in for Vale's purposes. And --

9 THE COURT: All right, well, then let me ask you
10 the other question, which is it sounds like there was 20,000
11 documents that were turned over and counsel is trying to get
12 a sense of how those -- that 20,000, is that a subset of the
13 24,000, so that would leave only 4,000 or so documents that
14 are still being looked at. Is that a correct statement?

15 MR. ADLER: That is a correct statement. Just to
16 clarify the record, the new joint administrators' have had
17 the full 24,000 document set in the redacted form, in the
18 form that it was produced to Vale. My understanding is that
19 they've had that full set for some time now. What we're
20 talking about is providing them with the unredacted set so
21 they have full access to it, and yes --

22 THE COURT: All right, well, that's important,
23 obviously, because nobody wants to review 20 or 24,000
24 documents twice and compare and contrast and not -- it
25 sounds like there's -- I mean, I've looked at the samples

1 that I've been given about things that are redacted, so that
2 -- it's important to get that resolved, because it's just
3 not efficient to start doing piecemeal review of documents.
4 It's incredibly expensive and this case has already been
5 incredibly expensive. So, that seems to be a reasonable
6 thing to do.

7 So, I did see in the letter there was a
8 disagreement, or seems to be a differing view about the
9 timing to get through the remaining 4,000 documents, so any
10 updates on that?

11 MR. ADLER: Yeah, so I mean, they had proposed
12 basically another, I think, two weeks setting a deadline in
13 two weeks. First of all, we have now released 20,000 of
14 them, that's the vast majority of them. And so, for the
15 remaining ones we're asking for an additional four weeks,
16 and we've also said that if you -- if Cleary or the new
17 joint administrators need to know whether BDO objects to the
18 disclosure or the de-designation of any particular document
19 is confidential from the set, we will get them an answer to
20 that within 48 hours, you know in the next four weeks. So,
21 if this issue comes up again, like with Mr. Cramer's
22 examination that's coming up, if Cleary and/or the new joint
23 administrators send us a document, we'll let them know
24 within two business days whether we have any issue with that
25 particular document being disclosed in unredacted form or

1 de-designated as confidential.

2 And we said we'll endeavor to do it, my only
3 concern is that if they give us 4,000 all at once, obviously
4 we're not going to be able to do it within two business
5 days, but if there something that is a small number of
6 documents, we'll get it done and we'll get them an answer
7 within two business days, but otherwise we would like until
8 December 10th or we can confirm that by December 10th we
9 will have got -- addressed all of this, and advised us as to
10 what the small number of additional documents that BDO is
11 maintaining its own confidentiality/privilege protection on.

12 THE COURT: All right. All right, with that, let
13 me return to the counsel for the new joint administrators.
14 And (overlapping conversation) continue any follow-up or
15 continued status.

16 MR. STAGMAN: Yeah, thank you, Your Honor. With
17 respect to the timing production of the remaining 4,000, I -
18 - we do appreciate that counsel is working cooperatively
19 with us and is new to the matter. We would say that one way
20 to possibly prevent having a dump request for many documents
21 that all have to be reviewed in lump sum, as counsel just
22 suggested would be to be providing us documents on a rolling
23 basis as they are reviewed and the confidentiality
24 terminations are made. So, we have a definite interest in
25 having the documents as soon as possible. We have -- our

1 client is facing their own pressures and so, we do not want
2 to just get a dump of 4,000 documents either on December
3 10th, and I would propose that if Your Honor's going to
4 consider their request for additional time that the parties
5 be agreeing that they are going to be produced on a rolling
6 basis.

7 The other reason (indiscernible) obviously, if you
8 want to have counsel respond, the other reason we would want
9 the rolling basis done is we would like to have a follow-up
10 conference with the Court shortly after that December 10th
11 production so -- or end -- production end date. So as to
12 discuss any issues that may have arisen, and we will not be
13 in any position to do that if suddenly we get 4,000
14 documents on the 10th, whereas if we've been looking at them
15 over the month that they've come in, we could kind of
16 finalize the deal relatively quickly.

17 THE COURT: All right, so let me ask counsel for
18 BDO to comment on the request for rolling production.

19 MR. ADLER: Your Honor, I have to say I'm not
20 personally involved in the mechanics of this production. I
21 imagine that would be fine, but I assume that would be fine.

22 THE COURT: All right. All right. It sounds like
23 a reasonable and fair request to me, this is a 2019 case,
24 and as we all are getting ready to exit 2020, much to
25 everybody's enormous relief, and we're -- we'll be entering

1 2021 this case is getting long in the tooth for a Chapter 15
2 case. I've had cases with Chapter 15 cases with trials and
3 it's taken less time than this case. So, all right. So,
4 I'm going to consider that request for rolling production to
5 be unopposed and granted, and I appreciate the flexibility
6 to get this to conclusion.

7 So, anything else from status from the new joint
8 administrators?

9 MR. STAGMAN: Well Your Honor, just a couple of
10 more remarks, because they are addressed in the letters.
11 First of all, we were encouraged to see that the 73
12 documents which, from our review of the history of this case
13 are to represent categories that the Court had previously
14 addressed with the parties, that those were de-designated as
15 confidential which gives us I think some good guidance going
16 forward in terms of how to approach those documents,
17 although we haven't had the opportunity to ascertain that
18 ourselves, we just want to do our remark on the record that
19 we believe that very helpful that those 72 documents
20 representing categories have now been determined by BDO not
21 to be confidential.

22 With respect to the 43 documents to which BDO
23 refers, the 43 documents that are anticipated to be used for
24 the examination of Mr. Cramer, we are now in possession of
25 those 43 documents, and we still are examining them, but we

1 do not think that there is anything that the Court would
2 have to address on those. We will be able to deal with that
3 relatively quickly with Cleary and proceed forward with
4 respect to those documents.

5 We would ask, and this may be more in the vein of
6 what the clients are -- or to respective clients, BDO and
7 ANM can do, ANM does have page numbers of documents for
8 example, the 72 documents they can go to the base numbers
9 and see if they actually have those 72 documents. We would
10 request also from BDO's counsel on this call that they relay
11 to the client if we could get the base numbers of the
12 remaining 4,000 odd documents that are being reviewed, so we
13 know which ones are still outstanding as this review
14 progresses, if we can get a re -- a number of that, that
15 would help us to get our arms around the sorts of things
16 that we are going to be reviewing over the next month.

17 THE COURT: All right, let me ask BDO's counsel,
18 can you get that information? In terms of the --

19 MR. ADLER: (overlapping conversation) I have to
20 say once again, I'm not -- I don't have my hands on the
21 relevant database, so I assume we can generate that and I'll
22 be happy to confer with Mr. Stagman and see what we can do
23 about that. I'll just need to consult with the --

24 THE COURT: All right.

25 MR. ADLER: -- the technical people.

1 THE COURT: All right. Thank you. I understand
2 that that -- you're not the person who's in the weeds on
3 this, but it certainly seems like a task that can be
4 accomplished in terms of just getting those numbers so
5 people can avoid having to have a twice over review of
6 documents and to do this efficiently, so all right. I'll
7 assume that that issue will be addressed and that
8 information can be provided.

9 All right, anything else from the joint
10 administrators? New joint administrators, I should say?

11 MR. STAGMAN: That concludes my remarks on the
12 document issues and confidentiality issues, Your Honor, and
13 thank you for your time.

14 THE COURT: Thank you.

15 MR. ROCHESTER: Your Honor, Shaya Rochester for
16 the new joint administrators. One comment made by Mr.
17 Stagman was trying to maybe schedule a status conference in
18 the middle of December after the December 10th production
19 date. Is that something that you'd like me to coordinate
20 with your chambers or is that something we should try to
21 schedule now?

22 THE COURT: Yeah, so I -- what I would do is you
23 have a little bit of -- you have some things that you're
24 trying to get done and the wisdom of a date may not be clear
25 until you have a few more discussions, but I -- what I would

1 do is reach out to chambers at the appropriate time to get a
2 date in early December, and I would think that that's fine.
3 I'd rather have a date that we can use for any issues rather
4 than something where we end up saying well, we're not quite
5 sure how some of these things are working out just to be
6 respectful of everybody's time, but yeah, reach out to
7 chambers and let us know you -- what you can do is just
8 caucus among the parties and get some proposed dates and
9 then send them over to chambers by email and we'll get you
10 on the schedule.

11 MR. ROCHESTER: Great, thank you very much, Your
12 Honor, we'll do that.

13 THE COURT: All right.

14 MR. ROCHESTER: I do not have any further remarks.

15 THE COURT: All right, thank you. Anything from
16 Vale?

17 MS. SCHWEITZER: No, Your Honor, this has been
18 very constructive. We appreciate your time.

19 THE COURT: All right. Well, it has been very
20 constructive, I would agree, and I'm very happy to be able
21 to make that observation. I fervently look forward to the
22 day when the two binders of documents that I have stored
23 here in my home that are the confidential -- the documents
24 relating to the confidentiality dispute of -- that those can
25 be appropriately shredded, but you'll let me know when we

1 get there. And in the meantime, good luck with your
2 continued progress, and I look forward to talking to you in
3 December, in the meanwhile, all of you have a safe and happy
4 Thanksgiving, and be well.

5 MS. SCHWEITZER: Thank you, Your Honor.

6 MR. ROCHESTER: Thank you very much, Your Honor.

7 MR. ADLER: Thank you, Your Honor.

8 MR. STAGMAN: Same to you.

9 THE COURT: Thank you very much. All right, and
10 the next matter on for Court is on for 3:00, so the Court
11 will be adjourned until that time. Thank you.

12 MS. SCHWEITZER: Thank you.

13 MR. STAGMAN: Thank you.

14 (Whereupon these proceedings were concluded at
15 2:32 PM)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

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Date: November 18, 2020